

**BOARD OF APPEALS CASE NO. 5210**

\*

**BEFORE THE**

**APPLICANT: Kenneth Scheffenacker**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to construct an in-ground swimming pool within the required front yard setback; 3200 Gloucester Drive, Fallston**

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**OF HARFORD COUNTY**

**Hearing Advertised**

**HEARING DATE: February 25, 2002**

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**Aegis: 12/26/02 & 1/2/02**

**Record: 12/28/01 & 1/4/02**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Kenneth Scheffenacker, is seeking a variance, pursuant to Harford County Code Section 267-26C(4), to allow an in-ground pool within the required front yard setback in an AG/Agricultural District.

The subject parcel is located at 3200 Gloucester Drive, Fallston, Maryland 21047, within the Woodsbrook subdivision. The parcel is more particularly identified on Tax Map 38, Grid 3F, Parcel 152, Lot 26. The parcel consists of 2.37± acres, is zoned AG/Agricultural and is entirely within the Fourth Election District.

The Applicant, Kenneth Scheffenacker, appeared and testified that he wants to construct an in-ground pool on his property. The lot is a panhandle lot located in the Woodsbrook subdivision and is uniquely configured, according to the Applicant, by three front yard setbacks. Even though the proposed location is to the rear of the home, it is nevertheless within one of the three front yard setbacks. In addition to being subject to three front yard setbacks, the location of the septic reserve area further constrains and limits any area available for accessory structures like a pool. The witness indicated that the yard also exhibits topography that rises in elevation from the pool location to the road by over fifteen (15) feet. There is substantial foliage between Mountain Road and the proposed location of the pool and the Applicant stated that during summer, it is virtually impossible to see the proposed location of the 20 foot by 40 foot pool. The Applicant did not feel that any adverse impacts to neighboring properties or property owners would result from the construction of the proposed pool at the proposed location.

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Mr. Edward Galloway appeared and indicated he is the contractor hired by the Applicant to construct the pool. The witness indicated that the pool was similar in construction to many other pools in Harford County. This pool would also include a 50 foot spa. In referring to the rear yard elevation, the witness said that, in his opinion, the yard elevation increases by twenty-five (25) feet from the rear of the house to MD Route 152 (Mountain Road). The witness confirmed that the elevation change, the foliage and the distances between properties all combine as factors mitigating any impact from the location of a pool at the proposed location.

The Harford County Department of Planning and Zoning also agreed that the property was unique. The parcel is a panhandle that fronts on Gloucester Road, Rutledge Road and Mountain Road, resulting in three (3) front yard setbacks. These setbacks coupled with the location of the septic reserve nearly eliminate any additions to the rear of the house without a variance. There is no other location for this pool. The Department agreed that no adverse impacts would result from construction of the pool.

There were no persons who appeared in opposition to the request.

### **CONCLUSION:**

The Applicant, Kenneth Scheffenacker, is seeking a variance pursuant to Harford County Code, Section 267-26C(4), to allow an in-ground pool within the required front yard setback in an AG/Agricultural District.

Section 267-26C(4) of the Code provides:

“No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages as specified in §267-23C, Exceptions and modifications to minimum yard requirements.”

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The Harford County Code, pursuant to 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

The Hearing Examiner agrees that the subject parcel is unique for the reasons stated by the Applicant and the Department. The parcel is subject to three (3) front yard setbacks and has a septic reserve area that almost eliminates any available area for accessory construction despite the rather large lot size. There will be no adverse impact from the pool or its location and road elevation, foliage and distance should mitigate any possible visual impact. Even with the variance approval, construction will still involve some modification to the location of the septic reserve.

The Hearing Examiner recommends approval subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections.
2. The Applicant submit to the Department of Planning and Zoning for review and approval, a final plat indicating revised location of the septic reserve area and a landscaping plan providing for additional evergreen plantings to further screen from view the pool and spa.

Date MARCH 18, 2002

William F. Casey  
Zoning Hearing Examiner